

REMARKS

This Amendment is in response to the Office Action dated July 28, 2005. Claims 1-25 are pending in the Office Action. Claims 1-25 were rejected. Claims 1, 6, 20, 21, and 25 have been amended and claims 3, 11, and 23 have been canceled. New claims 26-33 have been added to provide claims of varying scope than those initially filed. Examination and reconsideration based on this Amendment and the following remarks are respectfully requested.

Claim Rejections - 35 USC § 102

Claims 1-5 and 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Smyth et al., U.S. Patent No. 6,598,229 B2 (hereinafter Smyth). Applicant respectfully submits that Smyth does not teach each and every feature of Applicants' claimed invention as recited in amended independent claims 1, 21, and 25.

Claim 1

Applicant's amended claim 1 is drawn to a method for analyzing the operation of a media delivery device. The method involves, among other features, uploading a second diagnostic agent to the media delivery device, in response to a determination that the first diagnostic agent is not functional. In contrast, Smyth discloses reassigning data streams to other channels when a defective channel is detected. However, Smyth does not teach or suggest uploading anything to a media delivery in response to detecting trouble. Smyth merely reassigns data streams to a different channel. (See Smyth, column 10, lines 10-15). Thus, Applicants' amended claim 1 is allowable over Smyth.

Claim 21

Applicant's amended claim 21 is drawn to a computer program product comprising a computer-readable medium having control logic stored therein for causing a computer to analyze the operation of a media delivery device. The control logic comprises, among other features, computer-readable program code for causing the computer to upload a second diagnostic agent to the media delivery device, in response to a determination that the first diagnostic agent is not functional.

At least for the reasons stated above with regard to amended claim 1, Smyth does not teach or suggest uploading anything to a media delivery in response to detecting trouble. Smyth merely reassigns data streams to a different channel. (See Smyth, column 10, lines 10-15). Thus, Applicants' amended claim 21 is also allowable over Smyth.

Dependent Claims

At least because dependent claims 2, 4-5, and 22, and 24 respectively incorporate the features of amended independent claims 1 and 21 dependent claims 2, 4-5, and 22, and 24 are also allowable over Smyth.

Claim Rejections - 35 USC § 103

Claims 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth in view of Medvinsky, U.S. Patent No. 6,754,908 (hereinafter Medvinsky). Applicant respectfully submits that Smyth in view of Medvinsky does not teach or suggest each and every feature of Applicants' claimed invention as recited in amended independent claims 6 and 20.

Claim 6

Applicant's amended claim 6 is drawn to a diagnostic tool for remotely analyzing and diagnosing the performance of a media distribution device. The diagnostic tool includes, among other features, a diagnostic service center operative to upload the diagnostic agent to the media distribution device in response to detecting the performance problem. The diagnostic agent is operative to collect diagnostic data associated with the media distribution device.

At least for the reasons stated above with regard to amended claim 1, Smyth does not teach or suggest uploading anything to a media delivery in response to detecting trouble. Smyth merely reassigns data streams to a different channel. (See Smyth, column 10, lines 10-15). Medvinsky discloses sending a message containing errors, however the message is not operative to collect diagnostic data associated with the media distribution device as recited in amended claims 6. (See Medvinsky column 7, lines 49-60). Therefore, neither Smyth nor Medvinsky alone, or in combination, teach or suggest Applicants' amended claim 6. Thus, Applicants' amended claim 6 is allowable over Smyth in view of Medvinsky.

Claim 20

Applicant's amended claim 20 is drawn to a self-diagnosing media distribution system. The system comprises, among other features, an intelligent diagnostic agent uploaded to the media distribution device in response to detecting a performance a problem. The intelligent diagnostic agent collects diagnostic data associated with the media delivery device. At least for the reasons stated above with regard to amended claim 6, Smyth does not teach or suggest uploading anything to a media delivery in response to detecting trouble. Medvinsky discloses sending a message containing errors, however the message is not operative to collect diagnostic data associated with the media distribution device as recited in amended claims 6. Therefore, neither Smyth nor Medvinsky alone, or in combination, teach or suggest Applicants' amended claim 20. Thus, Applicants' amended claim 20 is allowable over Smyth in view of Medvinsky.

Claim 25

Claim 25 is rejected under 35 U.S.C. 103(a) as being anticipated by Medvinsky. Applicants presume the Office Action is referring to obviousness instead of anticipation. Applicants amended claim 25 is drawn to an intelligent diagnostic agent residing in a media distribution device within a self-diagnosing media distribution system. The intelligent diagnostic agent operative to, among other features, collect diagnostic data associated with the media distribution device. The intelligent diagnostic agent is uploaded to the media delivery device in response to detecting a performance problem. Medvinsky discloses sending a message containing errors, however the message is not operative to collect diagnostic data associated with the media distribution device as recited in amended claims 25. Thus, Medvinsky does not teach or suggest Applicants' amended claim 25.

Dependent Claims

At least because dependent claims 7-10 and 12-19 incorporate the features of amended independent claims 6 dependent claims 7-10 and 12-19 are also allowable over Smyth in view of Medvinsky.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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